

October 7, 1943

W. F. Frerichs, Purchasing Agent  
Arizona Highway Department  
Phoenix, Arizona

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**ARIZONA ATTORNEY GENERAL**

RE: SALES TAX ON INTERSTATE SHIPMENTS

Dear Sir:

This opinion is intended to cover sales tax on goods shipped to the State Highway Department in interstate commerce.

Our sales tax law is somewhat confusing, especially since the Act was amended in 1937. Supreme Court decisions have not added much light.

We believe the following statements are sufficient and are supported by the authorities, and will cover most questions that can arise:

1. Where the article is purchased outside of the State by direct order of the department and for the use of the department no tax is chargeable.
2. Under the above condition if the order is sent in through a local dealer acting as agent for the non-resident seller the dealer must pay the tax if a tax is payable and he may either pass it on to the consumer or absorb it himself.
3. Generally the State is not chargeable with the tax when the goods are to be consumed by the State or its departments for the benefit of the State. If the dealer wants to avoid the payment of the tax he should secure exemption claims from the State Auditor. The State Auditor will not allow a claim from a department or officer which includes sales tax but will strike the amount of the sales tax from the bill.
4. We do not know of any instance where the State purchases goods for the purpose of re-sale and in consequence the State could not be taxed as a seller of goods.

We think it is safe to say that the sales tax cannot be imposed upon goods purchased by the State for its own use from an out-of-State dealer on direct order from the State, and that the Department should refuse to pay or recognize such tax. If the dealer wants to secure the exemption he should apply to the State Auditor for exemption slips.

Very truly yours,

JOE CONWAY  
ATTORNEY GENERAL

*A. R. Lynch*

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ASSISTANT ATTORNEY GENERAL

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